

**BEFORE THE TENNESSEE EMERGENCY COMMUNICATIONS BOARD**

**Nashville, Tennessee**

**August 31, 2004**

**IN RE: REQUEST OF WHITE COUNTY EMERGENCY COMMUNICATIONS DISTRICT  
TO EXTEND INCREASE TO EMERGENCY TELEPHONE SERVICE CHARGE**

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**ORDER CLARIFYING DECISION TO CONDITIONALLY GRANT EXTENTION TO  
EMERGENCY TELEPHONE SERVICE CHARGE**

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This matter came before the Tennessee Emergency Communications Board ("Board" or "TECD") during a meeting convened on July 16, 2004.

**Background**

On August 30, 2001, White County Emergency Communications District ("ECD") Board of Directors appeared before the TECB to request an increase to the emergency telephone service charge imposed on land lines in White County. The ECD requested that its service charge be increased to the statutory maximum of \$1.50 per line per month for residences and \$3.00 per line per month for businesses in White County.<sup>1</sup> In justifying the need for the increase, the ECD listed the following thirteen items that the fund would be used to purchase: Dispatcher Training, ALI Map Pro, Attached Training Facility, Furniture for Console Area, Outside Fence and Gate, Outside Cameras, CAD System, Replace Floor Covering, Replace Office Furniture, Replace EMS Repeater, Install Rescue Repeater, GPS System and Digital Camera System. The Attached Training Facility was to be added onto the sole public safety answering point ("PSAP") serving the ECD.

After considerable discussion, the Board approved the request, pursuant to Tenn. Code Ann. § 7-86-306(a)(11), with four conditions. First, the increase would be effective for a term extending from August 30, 2001 through June 30, 2003. The Board specified that the ECD was eligible to apply for an extension of the increase. Second, funds from the increase were to be used to provide for the above mentioned thirteen expenditures listed on the ECD's application. Third, the increase was conditioned on the right of the TECB to review the ECD's budget prior to its adoption through June 30, 2003. Finally, the increase was specifically conditioned on the continued annual funding/appropriations from White County and the City of Sparta at the levels and amounts provided for in their interlocal agreements with the ECD, which, at the time, was not less than sixty-four percent (64%).

On March 4, 2003, the Board considered a request by the ECD to extend its increase. Again the increase was justified to fund the same thirteen items listed on the ECD's original application. The ECD asserted that not all the expenditures that had initially been approved had been completed.

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*See Tenn. Code Ann. §§ 7-86-108(a)(2)(A); 7-86-306(a)(11)*

The Board granted the ECD's request with the same conditions originally imposed. The Board decided that the extension should terminate on July 1, 2004. The Board again specified that the ECD was eligible to apply for an extension of the increase.

In May of 2004, the ECD filed an application for an extension of the increase to its emergency telephone service charge that purportedly was not supported by a Resolution adopted by the ECD Board of Directors. In addition, the required five (5) year plan was not included in the application.

During the May 27, 2004 Board meeting, it was reported that the ECD failed to complete its application filings in sufficient time to allow for proper review by the Board. Accordingly, the Board deferred deliberating on this issue until the next meeting to allow further review of the application and voted unanimously to allow the increased rate to remain in effect until that time. The Board directed the Chairman and members of the White County ECD Board of Directors to attend the TECB meeting during which the service charge would be deliberated.

In June of 2004, the ECD renewed its application for an extension to the increase on the emergency telephone service charge imposed on landlines in White County.

#### **The July 16, 2004 Board Meeting**

During the July 16, 2004 meeting, the Board considered White County ECD's request to extend the increase to its emergency telephone service charge levied on landlines in the county at the rate of \$1.50 per month for residential lines and \$3.00 for business lines. Director Harry Cole, Chairman Margaret England, County Mayor Herd Sullivan, Sparta Mayor and Board Member Tommy Pettigo, Board Member Ben Gardenhire and County Commission Member Jerry Denton attended the July 16 meeting.

The discussion addressed the ECD's projected five year plan, its lack of harmony, the need for the continued rate increase, ECD expenditures and audit findings and a decrease in the ECD's request for contributions from the County and the City of Sparta. It was reported that five of the thirteen items on the ECD's 2001 planned expenditure list had not been obtained, including the addition of the training facility to the PSAP. Of considerable concern to at least one member of the ECD Board of Directors was a reported uncertainty in the title to the land on which the ECD's only PSAP is located. It was reported that the land on which the PSAP was located, approximately seven-tenths of an acre on the side of a mountain between Sparta and Crossville, had been donated by a generous citizen and the deed memorializing that transaction contained a reversionary clause, effective should the land be used for anything other than a 911 center.

There was considerable discussion regarding the title of the land and the fact that, should the ECD cease using the property for 911 purposes, all improvements, including those funded by the increase to the service charge, would revert back to the private citizen who initially donated the land. It was noted that the property and building were probably worth between \$175,000 and \$200,000. It was also noted that the ECD Board had never voted to move its operations.

During the discussion, the ECD asserted that it had accumulated over \$100,000 in the last six years in part to pay for the addition to the PSAP and a new CAD system and noted that it had decided to spend the funds during the next year. The ECD stated that this fund was the center of controversy, because "we've had people that's been trying to spend that for us from the outside. Next year we're proposing that we go ahead and spend that money as part of our budget and get it out of the system so we get away from everybody trying to manage our system from the outside." The ECD then admitted that it had voluntarily asked for less funding from the County and the City of Sparta for this year.

It was reiterated that the increase to the service charge had been conditioned upon on the continued annual funding/appropriations from White County and the City of Sparta at the levels and amounts provided for in their respective interlocal agreements. It was also noted that the record showed that the ECD had accumulated \$156,000, but that it had not purchased all the items it listed on its original application in 2001.

During deliberations, concern was expressed about expending a major portion of the funds accumulated through the increase on the service charge on extensions and upgrades to the PSAP in light of the reversionary clause in the deed and the controversy and conflicts among the ECD board members about whether to make those improvements.

Thereafter, a motion to approve the extension of the increase for three years was offered. This was subsequently amended to two years to remain consistent with all such increases and extensions granted since the General Assembly proposed to amend Tenn. Code Ann. § 7-86-306(a)(10) to initiate a study by the Tennessee Advisory Committee on Intergovernmental Relations ("TACIR") on 911 funding during the 2004 legislative session. A friendly amendment to add a contingency that the ECD resolve the issue of whether to stay or move from the PSAP was also accepted. It was noted that the reversionary clause would be less problematic if the county or city owned the property and the improvements thereon would revert back to the people, rather than to a private citizen.

During deliberations, the Board heard from counsel for the ECD. He stated that before funds were expended on expansion of the PSAP, the ECD building committee will resolve where the expansion will be. He also suggested that the ECD could approach the owner of the property regarding obtaining clear title.

Another issue of concern raised during deliberations was the fact that the PSAP is purportedly built upon caverns. It was mentioned that insects coming from underground into the PSAP had required chemical treatment. It was suggested that the Board condition the extension of the increase on verification that the present site of the County's only 911 dispatch center was suitable for that use and for the planned expansion.

Another amendment was then offered. It was proposed that, before any funds are expended on the PSAP building, whether it be renovations, upgrades or additions, the ECD be required to resolve the issue of the land or location and that the ECD report back to the TECB within six months as to that decision.

Before that amendment was seconded, another amendment was proposed: that the extension of the rate increase be contingent on the contributions of the City of Sparta and White County revert back to the amounts contributed in 2003.

After the motion was seconded, it was noted that the original rate increase required only that City and County funding remain at the 2001 level. It was noted that in the years since 2001, Sparta and White County had appropriated and provided more funds to the ECD than those required under the 2001 contingency originally approved by the Board.

Subsequently, another issue of concern was raised. It was noted that the current service charge rate was already set at the maximum allowable under state law. Thus, there was concern that if Sparta and White County continue reducing their fiscal contributions to the ECD, sooner or later, the ECD will be in a position to need and request another increase, which the law would not allow.

After this discussion, an amendment to the motion was offered: The extension of the increase to the service charge shall be contingent on the contributions to the ECD from White County and the City of Sparta reverting back to the same amount that was appropriated in 2001, the year the increase was initially granted. This motion received a second, but did not receive a majority of the votes.

A member of the ECD Board of Directors then requested that the City and County be permitted to maintain their budgets at the budgeted rate for this year, but revert back to their 2001 contributions during the 2005-2006 fiscal year. This suggestion was then asserted in the form of a motion. The motion received a second and was unanimously approved by the TECB.

The decision was summarized as follows:

The amended motion is that we approve the White County rate increase extension request for two years, to June 30, 2006; give the City and County and 911 Board six months to work out their land problems; and that in the 2005-2006 budget, the County and City's contributions to 911 revert back to the 2001 funding.

The Board unanimously approved this decision.

**IT IS HEREBY ORDERED THAT:**

The request of the White County Emergency Communications District Board of Directors to extend the increase to the emergency telephone service charge levied on lines in White County in 2001 is granted, subject to the conditions set forth below. The emergency telephone service charge shall continue to be levied at the rate \$1.50 per line per month for residences and \$3.00 per line per month for businesses. The extension of the increase is conditioned on the following:

- 1 The contributions to the White County Emergency Communications District from White County and the City of Sparta in the 2005-2006 fiscal year shall revert back to no less than the amounts that they contributed respectively in 2001;

2. The White County Emergency Communications District Board of Directors, and the governing bodies of the City of Sparta and White County resolve the issue of whether clear title to the land on which the public safety answering point is located is obtainable and whether the public safety answering point should and will remain at its present location;
3. Within six months of July 16, 2004, the White County Emergency Communications District shall report to the Tennessee Emergency Communications Board with regard to the resolution of the issues stated in number 2 above;
4. Like all service charge increases and extensions thereto approved since the legislation creating the TACIR study was passed, the extension is subject to reconsideration should legislative changes to the state funding structure occur after completion of the TACIR study in 2006, and in any event, the extension shall terminate on June 30, 2006. At its discretion, the White County Emergency Communication District may apply for an extension to the increase in the emergency telephone service charge.

This 31 day of August, 2004.

Randy Porter  
Randy Porter, Chairman

w/permission, RP

Wanda Moody  
Wanda Moody, Vice Chairman

w/permission WM

Charles Bilbrey  
Charles Bilbrey, Board Member

w/permission CB

Ike Lowery  
Ike Lowery, Board Member

w/permission IL

Freddie Rich  
Freddie Rich, Board Member

w/permission FR

David Purkey  
David Purkey, Board Member

w/permission DP

Johnny Vickers  
Johnny Vickers, Board Member

w/permission JV

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Tom Beehan, Board Member<sup>2</sup>

Katrina Cobb  
Katrina Cobb, Board Member

w/permission, KC

<sup>2</sup> Mr. Beehan did not participate in this matter.